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UNIVERSITY OF SOUTHERN CALIFORNIA and
7 USC CARE MEDICAL GROUP, INC.

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10
11 UNITED STATES OF AMERICA
ex rel. IONM LLC, a Delaware
12 corporation and *ex rel.* JUSTIN
CHEONGSIATMOY, M.D.; STATE
13 OF CALIFORNIA *ex rel.* IONM
LLC, a Delaware corporation and *ex*
14 *rel.* JUSTIN CHEONGSIATMOY,
M.D.; LOS ANGELES COUNTY *ex*
15 *rel.* IONM LLC, a Delaware
corporation and *ex rel.* JUSTIN
16 CHEONGSIATMOY, M.D.; and
JUSTIN CHEONGSIATMOY,
17 M.D., in his individual capacity,

18 Plaintiff,

19 v.

20 UNIVERSITY OF SOUTHERN
CALIFORNIA, a California
21 corporation, and USC CARE
MEDICAL GROUP,
22 INC., a California corporation,

23 Defendants.
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26
27
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CASE NO: 2: 18-cv-08311-WLH (ASx)

JUDGE: Hon. Wesley L. Hsu

**JOINT STATUS REPORT BY
DEFENDANTS UNIVERSITY OF
SOUTHERN CALIFORNIA AND USC
CARE MEDICAL GROUP, INC. AND
NON-PARTIES UNITED STATES OF
AMERICA AND STATE OF
CALIFORNIA**

Action Filed: September 26, 2018

Trial Date: None

I. INTRODUCTION

The United States of America (the “United States”) and the State of California (“California”), as well as Defendants University of Southern California and USC Care Medical Group, Inc. (“Defendants”) submit this Joint Status Report to notify the Court that they have not received any indication that Justin Cheongsiatmoy, M.D. and IONM LLC (“Relators”) have retained new counsel. Notwithstanding the apparent failure of Relators to obtain new counsel, the Defendants and the United States and California (collectively, the “Governments”)¹ believe that the interests of justice would be best served by again continuing for an additional 60 days the Status Conference regarding Relators’ legal representation (the “Representation Status Conference”), which is presently scheduled to take place on January 3, 2025. Dkt. 361, 362, 371.

Specifically, continuing the Representation Status Conference for an additional 60 days will allow the Governments and Defendants to conclude their settlement negotiations, as to which they have agreements in principle (subject to verification of the loss amounts² and internal approvals), and potentially to seek leave to intervene for the purpose of allowing the Relators the opportunity to present to the Court any objections they may have regarding the settlement and/or to be heard regarding the appropriate percentage of the settlement proceeds to be awarded to them. In addition, another short continuance would relieve the Court of having to issue a ruling on the consequences of Relators’ failure to obtain new counsel.

Accordingly, the Governments and Defendants respectfully request an continuance of the Representation Status Conference for an additional 60 days.

II. STATEMENT OF FACTS

On July 11, 2024, the Desai Law Firm filed a motion to withdraw as local

¹ The Governments are not parties to this action but are instead real parties in interest. *United States ex rel. Eisenstein v. City of New York*, 556 U.S. 928, 934-35 (2009).

² As explained below, substantial progress has been made with respect to verification of loss amounts, but the verification process is not yet complete.

1 counsel. Dkt. 341. In its Statement of Interest (“SOI”) filed on August 26, 2024
2 (Dkt. 353), the United States pointed out that:

3 setting a reasonable deadline for relators to obtain new counsel in this
4 case would allow time for the United States to determine whether, given
5 the changed circumstances, it is appropriate to request leave to
6 intervene for good cause pursuant to 31 U.S.C. § 3730(c)(3) to facilitate
7 settlement negotiations. Such negotiations, if successful, would serve
8 the interests of judicial efficiency by effectively mooted the issue of
9 whether this action should be dismissed . . . based on relators’ lack of
10 representation by an attorney.

11 *Id.* at 4:11-17 (footnotes omitted). At the time, the United States believed that 30
12 days would be a reasonable time to allow relators to obtain new counsel.³ On August
13 27, 2024, the Court granted the motion of the Desai Law firm to withdraw as counsel
14 and *sua sponte* terminated the representation of Alice Chang as counsel due to her
15 inactive status. Dkt. 355. The Court also ordered Relators to appear in person at a
16 status conference (the Representation Status Conference) if they had not retained
17 new counsel. The Representation Status Conference was originally scheduled for
18 October 4, 2024 (Dkt. 358) but after reviewing status reports filed by Defendants the
19 Court continued the Representation Status Conference to December 6, 2024 and then
20 to the current date January 3, 2025. Dkt. 371. As of November 20, 2024 (for reasons
21 that are not readily apparent), Relators have not indicated that they have retained
22 new counsel. Dkt. 361.

23 Within the past 30 days, significant progress has been made towards
24 resolution of this entire action through settlement. Specifically, the California
25 Department of Insurance finalized a settlement with Defendants, intervened in this
26 action and requested dismissal of all claims asserted under California’s Insurance
27 Frauds Prevention Act, Cal. Ins. Code § 1871.7 (“IFPA”). This Court granted the
28 Department of Insurance’s request and dismissed the IFPA claims on November 22,

³ Dkt. 353 at p. 4 n.2.

1 2024. Dkt. 370. Defendants have reached agreements in principle with both the
2 United States and California subject to the United States' verification of the loss
3 amounts, formal internal approvals, finalization, and execution of the respective
4 settlement agreements. However, settlement agreements between the Defendants
5 and the United States regarding Medicare and other federal program claims and
6 California regarding Medi-Cal claims submitted by LAC-USC Medical Center
7 cannot yet be finalized because the process for verifying the amount of the claims is
8 not yet complete; as a result it is estimated the settlements cannot be finalized and
9 signed by the January 3, 2025 date currently set for the Representation Status
10 Conference.

11 Substantial progress has nevertheless been made towards verification.
12 Specifically, Defendants are currently in the process of providing information that
13 the United States has requested for the purpose of verifying the correct amount of
14 the settlement; the most recent information provided by the Defendants was received
15 on December 23, 2025, but due to the upcoming holidays the United States will be
16 unable to undertake a thorough review of this information until early January.
17 Accordingly, it is expected that completion of the verification process will required
18 at least an additional 30 days. If these agreements are then approved and signed by
19 the relevant parties, the Governments intend to seek leave to intervene. The
20 Governments also contemplate allowing Relators a reasonable opportunity to object
21 to the settlement and/or to be heard regarding the appropriate percentage of the
22 settlement proceeds to be awarded to them.⁴ Based on the status of these
23 negotiations, the Governments and the Defendants have determined that continuing
24 the Representation Status Conference for an additional 60 days may allow sufficient
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26 ⁴ The Federal False Claims Act and the California False Claims Act provide that the
27 government may settle a qui tam action notwithstanding the objections of the relator
28 if the Court determines, after a hearing, that the proposed settlement is fair, adequate,
and reasonable under all the circumstances. 31 U.S.C. § 3730(c)(2)(B); Cal. Gov't
Code § 12652(e)(2)(B).

1 time for the settlement agreements with the Governments to be finalized and signed
2 and thereafter reviewed by the Court together – rather than separately – for the
3 purpose of determining whether the settlements should be approved, which is in the
4 interest of judicial economy.

5 **III. THE COURT SHOULD CONTINUE THE REPRESENTATION** 6 **STATUS CONFERENCE**

7 For the following reasons, this Court should exercise its discretion to continue
8 the Status Conference Regarding Representation for an additional 60 days in the
9 interests of justice.⁵ First, as discussed above, and as set forth in the SOI, intervention
10 by the Governments for the purpose of settling this action will “effectively moot[]
11 the issue of whether this action should be dismissed . . . based on relators’ lack of
12 representation by an attorney.” Dkt. 353 at p. 4:14-17. Second, continuing the
13 Representation Status Conference again for a short period will allow the
14 Governments and Defendants an opportunity to conclude the settlement negotiations
15 that are now ongoing but cannot be completed by the January 3, 2025, the date
16 currently set for the Representation Status Conference. Third, as discussed above,
17 the Governments will not be in a position to seek leave to intervene until the
18 settlement agreements are finalized and signed. Fourth, if the Representation Status
19 Conference is continued, the Relators will have an opportunity to object to the
20 settlement agreement (and to be heard regarding the appropriate share of the
21 settlement proceeds to be awarded to them), even if they are not represented by
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23 ⁵ In its SOI, the United States pointed out that in *United States ex rel. Lockhart v.*
24 *General Dynamics Corp.*, No. 4:04cv296-RH/WCS, 2008 WL 11350222 (N.D. Fla.
25 Feb. 19, 2008) the United States filed a SOI for the purpose of asserting that the
26 relator there could not proceed without representation. The court in *Lockhart* set a
27 deadline for relator to retain counsel and then extended that deadline. *Id.* at *1. The
28 SOI filed by the United States here also pointed out that Defendants’ *Ex Parte*
Application for Order Setting a Status Conference took the position that relators
should be allowed a “reasonable period of time” to retain counsel. Dkt. 352 at 4:11-
12. The Governments and the Defendants agree that—in light of cases such as
Lockhart and under the circumstances here—it would be reasonable for the Court to
continue the Representation Status Conference.

1 counsel. For example, in *United States ex rel. Phillips-Minks v. Behavioral*
2 *Healthcare Corp.* No. CV 98-1012 IEG (LAB) at Dkt. 283 (S.D. Cal. July 27, 2001)
3 (available on PACER), the United States sought to intervene for the purpose of
4 presenting a settlement to the court for approval. The court granted the motion over
5 the objection of the unrepresented relator, noting that the relator would have “an
6 opportunity to object [to the] settlement if she so chooses.” *Id.* Dkt. 283 at p. 4:4-
7 5.⁶

8 **IV. CONCLUSION**

9 For the foregoing reasons, the Governments and Defendants respectfully
10 propose that the Court continue the Representation Status Conference currently
11 scheduled for January 3, 2025 for a period of 60 days.

12 Respectfully submitted,

13 Dated: December 24, 2024

LEECH TISHMAN NELSON HARDIMAN,
14 INC.

15 By: /s/ Jonathan Radke
Jonathan W. Radke

16 Attorneys for Defendants
17 UNIVERSITY OF SOUTHERN
18 CALIFORNIA and USC CARE
19 MEDICAL GROUP, INC.

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23 ⁶ A relator who is not an attorney is not qualified to represent the interests of the
24 United States. *See Stoner v. Santa Clara County Office of Education*, 502 F.3d 1116,
25 1126-27 (9th Cir. 2007). However, once the Governments have intervened in the
26 action for the purpose of effectuating a settlement, to the extent Relators objects to
27 the settlement (or wishes to be heard regarding the appropriate share of the
28 settlement proceeds to be awarded to them) cases such as *Stoner* may not apply
because he is not representing the interests of the Governments. The corporate
relator (IONM) must still be represented by counsel (*In re America West Airlines*,
40 F.3d 1058, 1059 (9th Cir. 1994), but neither the Governments nor Defendants are
aware that IONM has any interests beyond those of the individual relator in this case.

1 Dated: December 24, 2024

UNITED STATES ATTORNEY'S OFFICE

2 By: /s/ Frank Kortum
3 Frank D. Kortum, AUSA

4 Attorneys for Non-Party UNITED
5 STATES OF AMERICA

6 Dated: December 23, 2024

CALIFORNIA ATTORNEY GENERAL'S
7 OFFICE

8 By: /s/ John Fisher
9 John P. Fisher

10 Attorneys for Non-Party the STATE OF
11 CALIFORNIA

Attestation Pursuant to local Rule 5-4.3.4(a)(2)(i)

The undersigned attests that all signatories listed, and on whose behalf this filing is submitted, concur in the filing's content and have authorized the filing.

Dated: December 24, 2024

LEECH TISHMAN NELSON HARDIMAN,
INC.

By: /s/ Jonathan Radke

Jonathan W. Radke
Attorneys for Defendants

UNIVERSITY OF SOUTHERN
CALIFORNIA and USC CARE
MEDICAL GROUP, INC.